

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 3576 – HB 3789

March 29, 2012

**SUMMARY OF AMENDMENT (015777):** Deletes all language after the enacting clause. Effective July 1, 2012, replaces the “Judicial Nominating Commission” with the “Judicial Rating Commission.” Requires the Governor to fill a vacancy, because of death, resignation, or otherwise, that occurs during the term of office of a judge of the Supreme Court, Court of Appeals, or Court of Criminal Appeals, by appointing an attorney licensed to practice in Tennessee, who is fully qualified under the Constitution and statutes of Tennessee, and whose appointment complies with applicable constitutional or statutory provisions requiring equitable allocation of judges of the affected court among the state’s three Grand Divisions. Requires the Governor to promptly notify the Commission and the Speakers of the Senate and House of Representatives regarding the appointment and the appointee’s qualifications for filling the vacancy. Requires the Commission, within 30 days following such notification, to review and evaluate the suitability and qualifications of the appointee. Requires all hearings, interviews, meetings, and deliberations of the Commission to be open to the public. Requires the Commission, by rule, to prescribe uniform guidelines and procedures for the Commission’s review, evaluation, and rating of appointees.

Requires each gubernatorial appointment to be confirmed by resolution of the Senate and of the House of Representatives. If a judge of the Supreme Court, or of an intermediate appellate court is confirmed more than 30 days prior to the date of a biennial August election for a term to begin the following September 1, such judge shall stand for retention election. If such confirmation is less than 30 days prior to the date of a biennial August election, the judge shall begin the term September 1 and shall stand for retention election at the next biennial August election. Requires the Governor to fill a vacancy, because of death, resignation, or otherwise, that occurs during the term of office of a judge of the state trial court by appointing an attorney licensed to practice in Tennessee, who is fully qualified under the Constitution and statutes of Tennessee. Requires each gubernatorial appointment to serve until the next August election recurring more than 30 days after the vacancy occurs, at which time the qualified voters of the district shall elect a candidate to fill the remainder of the unexpired term or a complete term.

Effective September 1, 2015, requires each judge of a circuit, chancery, criminal, or other state trial court of record to be elected to a full eight-year term by the qualified voters of the judicial district or circuit to which the judge is to be assigned. Requires each judge of the Supreme Court or other state appellate court to be elected to a full eight-year term by the qualified voters of the entire state. Effective September 1, 2015, deletes the Judicial Rating Commission and the Judicial Performance Evaluation Commission. Specifies if Article VI, Section 3 of the Tennessee Constitution is amended at the November 2014 general election, the provisions of the bill that are effective September 1, 2015, will be repealed upon certification of the election results.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Decrease State Expenditures - \$6,500/FY12-13 thru FY14-15**

**Other Fiscal Impact – If Article VI, Section 3 of the Tennessee Constitution is not amended during the November 2014 general election, certain provisions of the bill will become effective September 1, 2015. These provisions would result in an additional decrease in state expenditures of \$80,700 in FY15-16, and \$95,500 in FY16-17 and subsequent years.**

Assumptions applied to amendment:

- Replacing the Judicial Nominating Commission (JNC) with the Judicial Rating Commission (JRC) will not have a fiscal impact to state or local government. The proposed legislation does not change the number of members or the number of meetings for the Commission until September 1, 2015.
- The JRC will rate appellate judge appointees while the JNC meets currently to select nominees for both trial and appellate judges. Approximately 50 percent of the JNC meetings in the last two years have related to trial judges, the AOC estimates that the JRC would meet half as often.
- Expenditures for the JNC for FY10-11 were \$12,906.36. Approximately 50 percent or \$6,453.18 would be saved annually from FY12-13 until September 1, 2015.
- No significant fiscal impact to the Governor's office to fill judicial vacancies by the procedures established in the proposed legislation.
- Any election held pursuant to the proposed legislation would be held with a regular August election, and therefore, would not have a significant fiscal impact to the Secretary of State's office. Any impact can be accommodated within existing resources without an increased appropriation or reduced reversion.
- Total savings in FY12-13 through FY14-15 will be \$6,453.18 annually.
- Additional savings in FY15-16 and subsequent years will be realized if Article VI, Section 3 of the Tennessee Constitution is not amended during the November 2014 general election. For the purposes of this fiscal impact, it is assumed that certain provisions of the bill as amended will become effective September 1, 2015 and the savings will be realized.
- On September 1, 2015, the Judicial Rating Commission and the Judicial Performance Evaluation Commission (JPEC) would cease to exist. For FY10-11, expenditures for the JPEC were \$82,583.29. Beginning September 1, 2015, approximately \$95,489.65 (\$12,906.36 + \$82,583.29) would be saved each year.
- Total savings in FY15-16 would be \$80,650.24  $\{[(\$6,453.18/12) \times 2] + [(\$95,489.65/12) \times 10]\}$ .
- Total savings in FY16-17 and subsequent years would be \$95,489.65.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/lsc